

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
)
v.) Criminal Action No.
) 10-00093-01-CR-W-GAF
DIAMOND D. BLAIR,)
)
)
Defendant.)

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on August 4, 2010. Defendant Blair appeared in person and with appointed counsel Laine Cardarella. The United States of America appeared by Assistant United States Attorney Leena Ramana.

I. BACKGROUND

On April 6, 2010, an indictment was returned charging Defendant with being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) & 924(e)(1).

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Ms. Ramana announced that she will be the trial counsel for the government; Assistant United States Attorney David Barnes will assist. The case agent to be seated at counsel table is Darrell Reach, Kansas City, Missouri Police Department.

Ms. Cardarella announced that she will be the trial counsel for Defendant Blair. Gina Slack, investigator, will be seated at counsel table.

III. OUTSTANDING MOTIONS

There are currently no motions pending.

IV. TRIAL WITNESSES

Ms. Ramana announced that the government intends to call ten witnesses without stipulations or five to six witnesses with stipulations during the trial.

Ms. Cardarella announced that Defendant Blair intends to call one witness during the trial.

Defendant may testify.

V. TRIAL EXHIBITS

Ms. Ramana announced that the government will offer approximately twenty exhibits in evidence during the trial.

Ms. Cardarella announced that Defendant Blair will offer one exhibit in evidence during the trial.

VI. DEFENSES

Ms. Cardarella announced that Defendant Blair will rely on the defense of general denial.

VII. POSSIBLE DISPOSITION

Ms. Cardarella stated this case is definitely for trial.

VIII. STIPULATIONS

Stipulations are likely as to Defendant's prior felony conviction.

IX. TRIAL TIME

Counsel were in agreement that this case will take two days to try.

X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed August 2, 2010, counsel for each party file and serve a list of exhibits he/she intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by August 4, 2010;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, August 11, 2010;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions¹ by or before noon, Wednesday, August 11, 2010. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

XI. UNUSUAL QUESTIONS OF LAW

Motions in limine concerning DNA will be filed. Specifically, Defendant plans to file motions in limine regarding (1) Fourth Amendment issues surrounding collection of the DNA sample and (2) the lack of time for Defendant to employ his own expert if the results of the DNA tests are adverse.

XII. TRIAL SETTING

All counsel and Defendant were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on August 16, 2010. The Government requests the second week of the trial docket because the case agent is unavailable until sometime during the week of August 9, 2010. Defendant objects to this delay because defense counsel is out of town on August 21, 2010 through August 22, 2010.

¹Counsel in all cases assigned to be tried before Chief Judge Fernando Gaitan, Jr., as reflected in the trial letter, shall meet and prepare a packet of agreed proposed jury instructions to be submitted to Judge Gaitan and e-mailed to marylynn_shawver@mow.uscourts.gov and rhonda_enss@mow.uscourts.gov by August 13, 2010. To the extent there are disagreements to certain instructions, each attorney shall tab and submit his or her preference on those instructions. The instructions shall be listed in the order they are to be given.

/s/ *Robert E. Larsen*
ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
August 4, 2010

cc: Mr. Kevin Lyon